

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Bhoomala Eswaraiah S/o late Chalmaiah R/o Kona (V), Kalakada(M), Chittoor District, against the Proceedings D.Dis. C3/9308/2010, dated 18.05.2011 of the Collector, Chittoor District - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition allowed – Orders Issued.

SOCIAL WELFARE (CV2) DEPARTMENT

G.O.MS.NO. 28

Dated: 29.08.2012.

Read the following.

1. Proceedings of the District Collector, Chittoor, D.Dis. C3/9308/2010, dated 18.05.2011.
2. Appeal Petition filed by Sri Bhoomala Eswaraiah S/o late Chalmaiah R/o Kona (V), Kalakada(M), Chittoor District, dated 17.06.2011.
3. Govt. Memo No. 8597/CV.2/2011, SW (CV.2) Dept., dated 01.07.2011.
4. Orders of APHC in WPMP No.37159 of 2011 in WP No. 29981 of 2011, dated 11.11.2011 filed by Sri B.Eswaraiah, Chittoor District.
5. Govt. Memo No. 8597/CV.2/2011, dt. 30.11.2011 and 04.01.2012.
6. From the District Collector, Chittoor Lr.No. Roc. C3/674/2012 dated : 06.02.2012.
7. Misc. petition/Appeal 8597/2011 dated 19.03.2012 filed by Sri B. Eswaraiah before the Government.
8. Govt. Memo No. 8597/CV.2/2011, SW(CV.2) Dept., dated 29.03.2012.
9. Govt. Memo No. 8597/CV.2/2011, SW(CV.2) Dept., dated 23.06.2012.
10. Govt. Memo No. 8597/CV.2/2011, SW(CV.2) Dept., dated 26.07.2012
11. Written Arguments dated: 06.08.2012 filed by the counsel for the Appellant before the Government.

ORDER:

In the reference 1st read above the District Collector, Chittoor has issued orders canceling Scheduled Tribe Certificate obtained from the then Tahsildar, Kalakada by Sri B. Eswaraiah S/o late Chalmaiah R/o Kona (V), Kalakada(M), Chittoor District.

2. In the reference 2nd read above, Sri B. Eswaraiah S/o late Chalmaiah has filed appeal petition before the Government against the orders of the District Collector, Chittoor. After examining the said Appeal Petition Government have admitted the appeal petition and called for the parawise remarks and connected records from the District Collector, Chittoor in the reference 3rd read above.

3. In the reference 4th read above, the Hon'ble High Court of AP., in WPMP No.37159 of 2011 in Writ Petition No. 29981 of 2011, dated: 11.11.2011, filed by Sri B. Eswaraiah S/o late Chalmaiah has directed the Appellate authority to dispose of the Appeal Petition filed by him before the Government within a period of 3 months. Further pending disposal of Appeal no further steps shall be taken consequent to the impugned order.

4. In the reference 5th read above, while furnishing the said Court directions, the District Collector was requested to furnish parawise remarks and connected records.

5. In the reference 6th read above, the District Collector, Chittoor has furnished the parawise remarks and connected records of Sri B. Eswaraiah S/o late Chalmaiah.

P.T.O.

6. In the reference 7th read above, the appellant has filed Misc. Petition before the Government based on the contents produced by the Appellant before the Government, the orders of the District Collector, Chittoor issued in the reference 1st read above has been stayed by the Government until finalization of the Appeal Petition in the reference 8th read above.

7. The said Appeal Petition has been posted for hearing on 09.07.2012 finally on 06.08.2012 and the same has been informed to the appellant, counsel for the appellant with a request to attend the hearing of the case with all documentary evidences/ certificates in favour of his community claim in the references 9th and 10th read above. The Advocate for Appellant was present and argued the case and explained his client's community status and the appellant filed written arguments before the Appellate Authority in the reference 11th read above.

8. Government has examined the records and Proceedings of the District Collector, Chittoor dated. 18.05.2011, grounds and written arguments submitted by the Appellant and having considered the arguments of either side and documentary evidences and written arguments of the appellant on perusal of the record, it is observed that the appellant was born on 01.03.1975 at Kona Village of Kalakada Mandal, Chittoor District, his father and mother, who belongs to Yerukala (ST) Community were working as agricultural coolies in the fields of one Sri B. Ramachandraiah of that Village. After demise of his parents, the Appellant was 03 years old, he was taken care and brought up by Sri B. Ramachandraiah, by admitting him into various schools on humanitarian grounds. At the time of his admission into Schools, the caste of the Appellant was recorded as 'Yerukala' ST Community, which belongs to his parent. Since then, he continued his education and completed Intermediate and ITI Course as ST Student. On completion of his studies, he was selected and appointed as Helper in APSEB Sub - Station, Madanapally in Open Category, even though he belongs to ST Community, subsequently he was promoted as Lineman. The Appellant in his written arguments has stated that since he was brought up by Sri B. Ramachandraiah, who belongs to Thoguta (BC) Community, he was not aware of his maternal and paternal relatives, since he was only 03 years old, at the time of the demise of his parents. This fact was also deposed before the Enquiry Officer by the said Sri B. Ramachandraiah who has taken care of the Appellant and given evidence that the Appellant belongs to 'Yerukala' (ST) Community and nobody was denied it. The Appellant also contended that he studied from 1st Class onwards by gaining admission into Hostels meant for STs and also, he was brought up in the atmosphere of STs only. It is also observed that the DLSC has never stated that the Appellant does not belong to Yerukala ST Community.

9. Basing on the evidences produced before Government and after hearing the arguments made by the parties, it is observed that the DLSC without taking into consideration of the Certificates issued by various MROs/Tahsildars of Kalakada Mandal, after due enquiry and the deposition of Sri B. Ramachandraiah, the Caretaker of the Appellant come to a one sided conclusion and recommended for cancellation of his ST Caste Certificate.

10. Further it is observed that on perusal of the written arguments of the Appellant and on perusal of relevant records, material papers, copies of documents made available, before the Government it appears that the DLSC and the Collector, Chittoor District have not viewed the issue from all possible angles and the ST (Yerukala) Certificates issued by various MROs/Tahsildars of Kalakada Mandal after due enquiries and never revealed the Appellant's Community, which gives room for benefit of doubt. Moreover, as his ST claim has been questioned at this point of time i.e., after lapse of nearly 40 years, it

may not be possible to elicit the correct information and the Appellate Authority is of the opinion that the claim of the Appellant as Yerukala ST Community is genuine and at any point of time no body has disregarded the claim of the Appellant.

11. Government after careful examination of the Appeal Petition and the facts stated supra and in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), hereby allow the Appeal Petition filed by Sri B. Eswaraiah S/o Chalmaiah, R/o Kona(V), Kalakada(M), Chittoor District and the Proceedings of the District Collector, Chittoor issued in the D.Dis. C3/9308/2010, dated 18.05.2011 is hereby set aside, by upholding the ST 'Yerukala' community certificate issued by the Tahsildar, Kalakada in favour of Sri B. Eswaraiah S/o late Chalmaiah R/o Kona (V), Kalakada (M), Chittoor District.

12. The District Collector, Chittoor shall take necessary action in the matter.

13. The records (containing D.Dis. C3/9308/2010, dated 18.05.2011, pages 01 to 114 CF and Pp 01 to 16 NF) received from District Collector, Chittoor District, through 6th read above, are returned herewith in original to District Collector and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A.VIDYASAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To
The District Collector, Chittoor (we) (By RPAD)
(with original records).

Sri B. Eswaraiah S/o Chalmaiah, R/o Kona (V),
Kalakada(M), Chittoor District.

Sri Venkataramana Reddy, Advocate, No. 21,
Street No. 1, Himayathnagar, Hyderabad.

Copy to:

The CTW, AP, Hyderabad/ the Director, TCR& TI, AP, Hyderabad.
The Chief General Manager (Adm.). APGENCO, Vidyut Soudha, Hyderabad.
P.S. to M (TW)
P.S. to Principal Secretary (TW)
SF/SC.

// Forwarded:: By Order //

SECTION OFFICER.